

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROMEO EZIKE,

No. C 08-1867-SBA

Plaintiff,

**ORDER**

v.

LAKSHMI MITTAL, et al.

Defendants.

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This action was commenced on April 8, 2008. On February 27, 2009, eleventh months after filing the complaint, this Court ordered Plaintiff to complete proper service within fourteen (14) days of the date of the Order or risk dismissal for failure to prosecute. [Docket No. 73]. Of the defendants who were properly served after February 27, 2009, all have been dismissed. [Docket Nos. 100, 102].

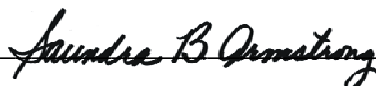
Unexecuted summons have been returned for defendants Lakshmi Mittal, Diana Garcia-Camilo, Richard Kruss, Kenneth Wadas, Cook County Jail, and DHL Worlwide Express [Docket No. 22, 57-61]. These defendants must now be dismissed for the failure to prosecute. Under Fed.R. Civ. P. 4M, the 120 days since the filing of the complaint have run and the Court must dismiss without prejudice. In addition, the Court also provided Plaintiff with additional time beyond the Rule 4M deadline to complete proper service, and that time expired on March 13, 2009. *See* the Court's Order of February 27, 2009.

The only remaining defendant for whom a summons was returned executed is the United States District Court, Northern District of Illinois. [Docket No. 56]. However, the district court does not have the capacity to sue or be sued under Fed. R. Civ. P. 17(b), and must also be dismissed.

Accordingly, the Court **ORDERS** the action dismissed without prejudice and directs the Clerk of the Court to terminate pending deadlines and close the file.

IT IS SO ORDERED.

Dated: 6/29/09



Saundra Brown Armstrong  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

EZIKE et al,

Plaintiff,

v.

MITTAL et al,

Defendant.

Case Number: CV08-01867 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 30, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Romeo Ezike  
P.O. Box 425126  
San Francisco, CA 94142

Dated: June 30, 2009

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk